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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SALL, EL HADJI MALICK

ART UNIT PAPER NUMBER

2157

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,009

Applicant(s)

DAOUD ET AL.

Examiner

El Hadji M. Sall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6-8, 10-13, 16, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9, 14, 15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the correspondence filed on June 17, 2005. Claims 6-8, 10-13, 16 and 19-20 are cancelled. Claims 1-5, 9, 14-15 and 17-18 are pending. Claims 1-5, 9, 14-15 and 17-18 represent apparatus and method for identifying a requested level of service for a transaction.

2. ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah U.S. 6,377,548 in view of Jepson U.S. 6,366,581.

Chuah teaches the invention substantially as claimed including virtual private network service provider for asynchronous transfer mode network.

As to claim 1, Chuah teaches an apparatus for identifying a requested level of service for a transaction, comprising:

computer readable storage media (figure 2, item 232); and computer readable program code stored in said storage media, comprising:

a) selecting a requested level of service for said transaction (column 33, lines 41-56, Chuah discloses upon receiving an associate request frame from a wireless modem, after the AP has successfully authenticated the wireless modem, and if it is desirable to provide different QoSs to different users (albeit potentially from the same wireless modem), then each user is given a different connection identity);

b) assigning said requested level of service to said transaction (figure 16; column 33, lines 41-56, Chuah discloses providing different QoSs to different connections (i.e. it is inherent that when there is connection, there is transaction, then by providing QoSs to connections, "requested level of service to said transaction is assigned or provided"))).

Chuah fails to teach explicitly prompting.

However, Jepson teaches method and apparatus for generating permanent virtual connections using graphical user interface. Jepson teaches prompting the user (column 9, lines 13-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chuah in view of Jepson to provide a program code for prompting a user to select a requested level of service for said transaction. One would be motivated to do so to provide a graphical user interface for selecting quality of service parameters.

As to claim 2, Chuah teaches an apparatus, as in claim 1, wherein said transaction is a packetized signal comprising at least a data packet, and wherein a service tag is associated with said data packet by said program code for assigning said requested level of service, said service tag including said requested level of service (column 32, lines 16-40, Chuah discloses each nodes packets are then assigned service tags according to the applicable fair queuing algorithm. Packets are then serviced according to the order of the assigned services tags. If packets arrive from a node that previously had an empty queue, the packets of the newly transmitting node are assigned service tags starting from the tag of the packet currently in service).

As to claim 3, Chuah teaches an apparatus, as in claim 1, further comprising:

a) selecting a backup level of service (column 38, lines 50-52, Chuah discloses Overload control methods then allow this AP to disconnect users of a lower priority during congestion); and

b) assigning said backup level of service to said transaction (column 38, lines 52-54, Chuah discloses alternatively, instead of disconnecting users of a lower priority, they may be redirected to other nearby APs that have a lower load).

As to claim 4, Chuah teaches an apparatus, as in claim 1, wherein said requested level of service is a predefined service category (column 39, lines 1-3, Chuah discloses all admitted users may generally be classified into two categories: those which allow service interruptions and those which do not).

4.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 5, 9, 14-15 and 17-18 are rejected under 35 U.S.C. 102(e) as being unpatentable over Chuah U.S. 6,377,548.

Chuah teaches the invention as claimed including virtual private network service provider for asynchronous transfer mode network.

As to claim 5, Chuah teaches an apparatus for identifying a requested level of service for a transaction, comprising:

computer readable storage media (figure 2, item 232); and

computer readable program code stored in said storage media, comprising:

a) selecting said requested level of service for said transaction, said requested level of service being based on a user identification (column 33, lines 41-56, Chuah discloses upon receiving an associate request frame from a wireless modem, after the AP has successfully authenticated the wireless modem, and if it is desirable to provide different QoSs to different users (albeit potentially from the same wireless modem), then each user is given a different connection identity (i.e. different QoSs are given to different users based on the users' identification)); and

b) assigning said requested level of service to said transaction (figure 16).

As to claim 9, Chuah teaches a method for requesting a level of service for a transaction on a network, comprising:

selecting said requested level of service for said transaction via a user interface (column 9, lines 43-45, Chuah discloses remotes that have packets to send transmit access requests via the request channel to the base station ; column 30, lines 42-43, Chuah discloses a scheduling system is desired that provides Quality of Service to end users; column 33, lines 45-47, Chuah discloses When a user requests a connection via the wireless modem, the connection request is forwarded by the access point to the wireless hub)

assigning said requested level of service to said transaction (figure 16).

As to claim 14, Chuah teaches an apparatus for routing a transaction over a network based on a requested level of service associated with said transaction, comprising:

a number of computer readable storage media (figure 2, items 232); and
computer readable program code stored in said number of storage media,
comprising:

a) selecting said requested level of service for said transaction (column 33, lines 41-56, Chuah discloses upon receiving an associate request frame from a wireless modem, after the AP has successfully authenticated the wireless modem, and if it is desirable to provide different QoSs to different users (albeit potentially from the same wireless modem), then each user is given a different connection identity);

b) assigning a service tag to said transaction, said service tag including said requested level of service (figure 16; column 9, lines 61-66, Chuah discloses a service

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tag is used to schedule the transmission order of the packets from the hosts, with the current queue information of all wired hosts being always known to the base station and the queue information of the remotes being sent to the base station through reservation requests; column 30-31, lines 64-67 to 1-2, Chuah discloses in one method, the base station can broadcast the system virtual time and the assigned shares of service classes to each of the wireless modems. Then, each wireless modem computes its own service tag and informs the base station of it via a request access packet or by piggybacking on the data transmission).

c) reading said requested level of service from said service tag (column 30, lines 59-61, Chuah discloses at least two alternative ways to compute the service tags for all hosts associated with the access point (i.e. by computing the service tag, it is inherent that quality of service or "level of service" is being "read from the service tag"; column 31, lines 13-15, Chuah discloses each remote host computes a service tag value for each of its newly arrived packets, then transmits the smallest tag value to the base station); and

d) directing said transaction over said network based on said requested level of service read from said service tag (figure 15A; column 31, lines 13-15, Chuah discloses then each remote host transmits the smallest tag value to the base station).

As to claim 15, Chuah teaches an apparatus, as in claim 14, wherein said transaction is directed over said network to a device best providing said requested level of service (column 34-35, lines 66-67 to 1-2, Chuah discloses Based on a list of

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access points with which the wireless modem can communicate, the modem decides which AP to associate with by choosing the AP that best meets the following criteria).

As to claim 17, Chuah teaches an apparatus, as in claim 14, wherein said service tag is read by program code at more than one point on said network (column 9, lines 52-54, Chuah discloses each entry contains the remote/wired host identification tag and an associated field containing the service tag).

As to claim 18, Chuah teaches an apparatus, as in claim 14, further comprising program code for changing said requested level of service included on said service tag (column 4, lines 39-42, Chuah discloses the scheme of Kautz changes service tag values only for those packets transmitted in error, causing the QoS at all remotes to suffer because the packets of all the remotes are delayed by retransmission of the lost packet).

6. Response to Arguments

Applicant's arguments filed on 06/17/05 with respect to claims 1-5, 9, 14-15 and 17-18 have been considered but are moot but they are not persuasive.

(A) Applicants argue that the finality of the Office Action dated April 11, 2005 is believed to be premature, and ask the Examiner to withdraw the finality of my office action.

In regards to point (A), Examiner agrees and withdrew the final Office Action, and considers it as a first Office Action Non-final.

Since Applicants arguments are not persuasive, Examiner is making this Office Action Final.

(B) Applicant argues that Chuah does not teach the assignment of different QoSs at the more granular level of different "transaction".

In regards to point (B), examiner respectfully disagrees.

Features such as the assignment of different QoSs at the more granular level of different "transaction" are not in the claim.

7. Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

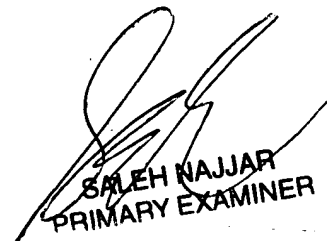
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4010.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

El Hadji Sall
Patent Examiner
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SALEH NAJJAR
PRIMARY EXAMINER

